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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/882,205

Applicant(s)

CONNELLY, JAY H.

Examiner

SON P. HUYNH

Art Unit

2424

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 43-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 43-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/C)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-12, 43-49 have been considered but are moot in view of the new ground(s) of rejection.

Note: U.S. 2005/0028208 A1 (referred as E208), US 6,536,041 B1 (referred as Knudson), US 2003/0149988 A1 (referred as E988), US 2006/0190966A1 (referred as McKissick), US 7,185, 355 (referred as E355), US 2005/0204388 A1 (referred as E388), US 2005/0283800 A1 (referred as E800), US 6,820,278 B1 (referred as E278), US 20050262542 A1 (referred to as DeWeese)... are incorporated by references in their entirety in US 2004/0117831 A1 (referred as E831) – see include, but are not limited to, E831: paragraphs 0118, 0143, 0146, 0146, 0151, 0188, 0216), therefore, these applications and all incorporated by references in their entirety are treated as part of the text of E831 (see M.P.E.P 2163.07 (b) [R-3]).

Applicant argues Ellis fails to disclose the broadcast of content descriptors to a plurality of clients, receiving feedback from those clients (all of them) based on relative desirability of the content described in the broadcasted content descriptors in an automated/transparent manner, and making a new broadcast schedule based on the feedback from all of the clients because, in Ellis, there is no new broadcast schedule

since the content proposed to be sent to subscribers is not in a broadcast schedule. It is content that is for a particular user based on the user's explicit feedback. This content is not intended to be scheduled to be broadcast to all users because the feedback from individuals is different (page 10). This argument is respectfully traversed.

It is noted that the claim does not recite future broadcast schedule is created in response to combination of feedback received from the plurality of clients. In other words, the claims do not recite refining a list of available content in response combination of first feedback received from the plurality of clients. Thus, the limitation "refining a list of available content in response to the first feedback to create the future broadcast schedule,..." could be interpreted as refining/updating/changing a list of available content in response to one of feedback received from plurality of clients.

Ellis discloses receiving user selection/reference of program descriptors (e.g., via program guide information) from plurality of clients (e.g. user television equipments, television, remote access devices). The user selects program descriptors using multiple clients (for example, using one user television equipment to select program descriptor correspond to program scheduled to be recorded or viewed then using another device such as remote access device or a device in neighbors home to select program descriptor of another program to be scheduled for recording or viewing; a list of available content is refined to display only pending selections of programs scheduled to be broadcast in future (see include, but not limited to, E208: figures 2a-2b, 4-5, 29, paragraphs 0103, 0127, 0163, 0218-0220; E988: figures 14c-17, 18f). Ellis further discloses programs correspond to program descriptors selected by users are pay per

view or programs scheduled to air/broadcast in future (see include, but not limited to, E208: par. 0100; E988: figure 15a-15b, 17). Thus, the feature of "receiving first feedback from the plurality of clients regarding to the content descriptor" is interpreted as receiving user(s) selections from plurality of devices such as user television equipments, televisions, and/or remote access device. the feature of "refining a list of available content in response to the first feedback to create future broadcast schedule" is broadly interpreted as updating/changing a list of available content in either main menu or in each niche hub in response to user selections/references (received from the devices) to create a future broadcast schedule that comprises only program selected by user(s).

In response to Applicant's argument that Ellis is sent only to specific users based on feedback from the particular users. The further content is Ellis is not broadcast to all users (page 10, par. 3), the examiner respectfully disagrees.

As indicate above, Ellis further content correspond to program descriptors selected by user(s) are pay per view or programs scheduled to air/broadcast in future (see include, but not limited to, E208: par. 0100; E988: figure 15a-15b, 17). Thus, the content is broadcast to all users (but only users, who selected/ordered the content, are allowed to watched/recorded).

For the reasons given above, rejections on the claims are discussed below.

Claims 13-42 have been canceled.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-12, 43-49 are rejected under 35 U.S.C. 102(e) as being anticipated by E831.

Regarding claim 1, E831 discloses a method for distributing content using a multi-stage broadcast apparatus (figure 1), comprising:

broadcasting content descriptors, which are sets of attribute values that describe pieces available content being considered for potential inclusion in a future broadcast schedule, but not included in a previous broadcast schedule, from a multiple stage broadcast apparatus to a plurality of clients, wherein the broadcast of the content descriptors is transparent to users of the plurality of clients (e.g., main facility, television distribution facility, broadcast content descriptors including category, channel, title, episode identifier, or time, etc. which describes content of episodes that are first run, news, pay per view program, or incoming broadcast program, etc. being considered for

inclusion in a future broadcast schedule to the plurality of users at user television equipments. Since the content is content of "first run" episodes, or content of incoming broadcast program, or coming soon, or new release, etc., the content is not included in a previous broadcast schedule, wherein the broadcast/distribution of the content descriptors such as program category, channel, title, etc. are not displayed to the users of the plurality of user television equipments when the televisions are off or when the users are not at the television equipments or when the television descriptors are not selected to display to the users— see include, but are not limited to, figures 1b-1d, 2-4, 9-11, 32-33, 36, 38 paragraphs 0088-0089, 0092, 0094, 0099, 0107, 0120, 0124, 0131, 0135-0138, 0148, 0195-0196, 0201, 0216; E388: abstract, figures 11, 12a, paragraphs 0010-0011, 0015, 0019, 0041, 0057-0058, 0089);

receiving first feedback from the plurality of clients regarding the content descriptors, the first feedback being an indication from the plurality of clients of the relative desirability of the available content described by the content descriptors (receiving feedback such as viewer selection of a niche hub, time slot, viewing viewer rating, vote, or viewing habits, viewing selection, user selection of program to be viewed/recorded, etc. from the plurality of devices and/or users, the feedback being an indication of the relative desirability of the available content described by the content descriptor e.g., two happy faces, one unhappy face, or one happy face, or favorite program, niche hub, tuned to program, interest program, etc., – see include, but are not limited to, figures 8, 11-18, 24-26, paragraphs 0156, 0160, incorporated by reference

U.S patent 7,185,355 (hereinafter referred to as E355), figures 7-14, col. 5, lines 10-20 and see "response to arguments" above);

E831 further discloses television distribution facility polls set top boxes periodically for certain information (e.g., pay program account information or information regarding programs that have been purchased and viewed using locally generated authorization technique) - see include, but are not limited to, E355: col. 5, lines 14-18); and the program guide may monitor the programs that are being watched by the user by monitoring the user viewing's times, channels, and the frequency with which the programs are watched. Monitoring the user's behavior in this way allows the program guide to determine the user's preferences (see include, but are not limited to, col. 11, lines 4-16), monitor user selection of program to be recorded/viewing, etc. (see E988: figures 15a-15b, 18f; E208: paragraphs 0103, 0127, 0163, 0218-0220) . Thus, the limitation "first feedback is based on previous content consumption by the plurality of clients, the first feedback being automated and transparent to the users of the plurality of clients and in response to a trigger from a broadcaster of the content descriptor" is interpreted as viewer behavior, viewer's activities, or viewer selections is based on program or content that is previously purchased or viewed by viewers and viewer's activity, viewer's selection, or program accessed information, etc. being automated and transmitted to television distribution facility or remote server in response to a trigger from television distribution facility or remote server to poll the user television equipments/set top boxes/remote access device - see also E208: figures 10-11b; E988: figures 18f and discussion in "response to arguments" above).

E831 further discloses refining a list of available content in response to the first feedback to create the future broadcast schedule, (e.g., displaying a list of future broadcast schedule based on user preferences/profiles, or user selections, viewing accessed collected from the poll, etc. see include, but are not limited to, paragraphs 0115, 0119, 0120, 130-131, 0136, 0149, 0150, 0157; E988: figures 18f, E388: figures 10-12a – see also discussion in "response to arguments" above), wherein refining the list of available content prioritizes an order in which at least a portion of the available content described by the content descriptors will be broadcast (e.g. the selected list of available content prioritizes/arranges in order of air times, or ratings, etc. in which at least a portion of the available content (e.g., content title, a clip, program content, etc.) will be broadcast (see include, but are not limited to, paragraphs 0136-0138, 0157-0158; E988: figures 18f, E388: figures 10-12a) ; and

broadcasting a further descriptive content included in the content listed in the refined list of available content to the plurality of clients, the further descriptive content describing pieces of content that are more likely to be ranked, rated, and/or consumed (program guide information and other information provided by broadcasting distribution facility further comprises description, title, television program contest, survey, target advertisement, preview, video clip, detail information, rate, ratings, happy faces, etc. see include, but are not limited to, paragraphs 0127-0134, 0140, 0142, 0156-0160, 0245, 0247-0250, 0258);

receiving next feedback from the plurality of clients regarding the further description content (e.g. receiving selections for additional information, program

information, or video clips, etc. from the plurality of users of user television equipments and/or other devices such as remote access device –see include, but are not limited to, E831: figures 5-16, 18, 50, 53A, 53E, 54A; E988: figures 11a-12b, 14a-15b; E388: figures 7-12; E208: figures 2a-2b, 8-11, 29).

refining a list of available content in response to the next feedback (e.g., narrowing the list of available content in response to user selections of particular hubs or genre, air time, category, pending selections, etc. E831: figures 5-16, 18, 50, 53A, 53E, 54A; E988: figures 11a-12b, 14a-15b, 18f; E388: figures 7-12).

Regarding claim 2, E831 teaches a method as discussed in the rejection of claim 1. E831 further discloses repeating operations of broadcasting further descriptive content, which further describes the available content listed in the refined list of available content, and receiving corresponding additional feedback to further refine the list of available content in response to additional feedback (broadcasting further descriptive content such as identifier, air time, or video clips, etc. of the movie according to the user preference, user selection, or user rating, etc. and receiving user selection for additional information of the movie (e.g., video clip, program information, actor/actress, or full title, etc.) to further refine/sort the list of programs/movies in response to the selection for additional information – see including, but are not limited to, figures 13, 16, 54A, 54E, paragraphs 0111, 115, 118, 0123, 0127-0128, 0132-0133, 0138-0139).

Regarding claim 3, E831 teaches a method as discussed in the rejection of claim 2. E831 further discloses the further descriptive content (e.g. additional information, content title, actor/actress name, air time, or video clip, etc. – figures 6-16, 24) is more descriptive of the available content than previous broadcast descriptive content (e.g. category, type, etc. in main menu, figures 2-3,5).

Regarding claim 4, the limitations that correspond to the limitations of claim 1 are analyzed as discussed in the rejection of claim 1.

the limitation “receiving first feedback from the plurality of clients regarding the content descriptors, the first feedback being an indication from the plurality of clients of the relative desirability of the available content described by the content descriptors” corresponding to the limitation “receiving feedback...” in claim 1, and are analyzed as discussed in the rejection of claim 1.

the limitation “sorting available content in response to the first feedback from the clients” is interpreted as sorting available content by time, by channel, by theme, or by favorite, etc. in response to user selection of display by time, display by channel, display by theme, or display by favorite, etc. see include, but are not limited to, E831, figures 2-3, 5-14);

broadcasting further descriptive content related to at least a first portion, which includes the content that is determined to be more likely in demand, of the available content as sorted to the clients, the further descriptive content describing pieces of content that are more likely to be ranked, rated, and/or consumed (broadcasting

descriptive content such as program title, actor/actress, channel, airtime, additional information, or video clip, etc. related to user selection of particular category, type, or high ratings, etc., which includes high rating content, target content, or content related to particular genre, etc. based on user viewing history, or viewer profile, etc. to users of user television equipments— see include, but are not limited to, E831: figures 5-14, 25, 26, 27, 31; E388: figures 9-11; E355: 23-24, 27 and discussion in the rejection of claim 1);

receiving next feedback from the plurality of clients regarding the further descriptive content (e.g. receiving user selection for additional information, program information, or video clips, etc. from the plurality of users of user television equipments —see include, but are not limited to, E831, figures 5-16, 50, 53A, 53E, 54A);

sorting the available content in response to the next feedback from users to create the future broadcast schedule (search for available content for additional content such as program title, airtime etc., in response to selections of users at the user television equipments, to create the future broadcast schedule (e.g., hot list, high demand list, etc.) – see include, but are not limited to, paragraphs 0131, 0135-0138; E355: figures 23-24, 27-30, col. 9, line 15-col. 10. line 54), wherein sorting the available content prioritizes an order in which at least a portion of the available content described by the content descriptors will be broadcast (e.g. the selected list of available content prioritizes in order of time in which at least a portion of the available content (e.g., content title, video clip, or program information, etc.) will be broadcast (see include, but are not limited to, paragraphs 0135-0138, 0157,0181-0182);

broadcasting at least a second portion, which is selected from the first portion, of the available content to the client in an order responsive to the next feedback from the client as prioritized by the sorting and according to the future broadcast schedule (broadcasting at least a portion such as detail description, video clip, or preview, or content of pay per view, etc. which is selected from the selected category, selected hub, or selected time slot, etc. listed in the selected list, air times lists, etc. as prioritized by the selected list, or air time list, according to the future broadcast schedule, to users at user television equipments so the selected/sorted content is received at the television equipment for recording or watching – see include, but are not limited to, E831, paragraphs 0196, 213, 0239, 0249-0250; E988: figures 18a-18f, 27, and discussion in the rejection of claim 1).

Regarding claim 5, E831 teaches a method as discussed in the rejection of claim 4.

E831 further discloses repeating:

broadcasting further descriptive content (e.g. additional information, video clip, or program information, score, etc.) related to a narrower portion of the available content as sorted to the plurality of clients (see include, but are not limited to, paragraphs 0092, 0099, 0110, 0128, 0138, 0181);

receiving next feedback from the plurality of clients regarding the further descriptive content (receiving selections of additional information, votes, etc. from users see include, but are not limited to, paragraphs 0111, 0128, 0132-0133, 0137-0139, 0155, 0167, 0192).

Regarding claim 6, E831 teaches a method as discussed in the rejection of claim 4.

E831 further discloses the further descriptive content less expensive to the broadcast to the clients than the available content (since only a portion of the content (i.e., video clip, title, etc.) is broadcast – see include, but is not limited to, figure 13).

Regarding claim 7, E831 teaches a method as discussed in the rejection of claim 4. The claimed feature “the sorting of the available content in response to the next feedback comprises assigning a higher weight to the next feedback than the first feedback” is broadly interpreted as searching/sorting content more related to the second selection (e.g. for movie titles, air times, or detail information, etc., see include, but are not limited to, E831, figures 7, 10, 13-16, 20, 23-24) than the first selection (e.g. a theme, type, etc. – see include, but are not limited to, E831, figures 2-3).

Regarding claim 8, E831 teaches a method as discussed in the rejection of claim 7. E831 further discloses broadcasting of second portion (e.g., program information, or program content as scheduled air times, etc.) in an order further responsive to the first feedback from the plurality of users (in an order responsive to the users’ viewing habits, users’ preferences, user profile, or user selections, etc. – see include, but are not limited to, paragraphs 0088, 0092, 0099, 0110, 0118, 0123, 0128, 0131, 0138, 0148, 0158, 0195-0197, 0201-0203, 0213, 0215-0216, 0250).

Regarding claim 9, E831 teaches a method as discussed in the rejection of claim 4. E831 further discloses broadcasting further descriptive content comprises broadcasting partial available content to the plurality of clients (e.g. text and graphics, video clip, etc. advertising pay per view programs or other programs – see include, but are not limited to, figures 7, 8, 13).

Regarding claim 10, E831 teaches a method as discussed in the rejection of claim 9. E831 further discloses users' viewing habits, user selections of particular video clip, vote for a particular program, team, or purchase a pay per view program, feedback information related to movies, etc., are collected (see include, but are not limited to, paragraphs 0131, 0137-0138, 0147), users favorite programs are displayed or automatically recorded (paragraph 0202); and providing hot movies list, popular shows, etc. (paragraphs 0130-0131, 0250). Thus, the further descriptive content broadcast to the plurality clients (users of user television equipments) is kept track, wherein the broadcast of at least a second portion of the available content comprises broadcasting a portion of a remaining portion of the partial available content to the plurality of clients when the clients select, order the content so that the users can watch or record the remaining portion of a program such as pay per view program or popular show, or hot movie, etc.

Regarding claim 11, E831 teaches a method as discussed in the rejection of claim 4. E831 further discloses the available content comprises at least one of video information,

graphical information, or textual information (see include, but are not limited to, figures 7, 8, 12-13, 16).

Regarding claim 12, E831 teaches a method as discussed in the rejection of claim 4. E831 further discloses the further descriptive content comprises at least one of a graphical clip, a textual description (see include, but are not limited to, figures 13, 16, 53E).

Regarding claim 43, the limitations of the apparatus as claimed correspond to the limitations of the method as claimed in claim 4, and are analyzed as discussed with respect to the rejection of claim 4. E831 further discloses the apparatus (television distribution facility and/or user television equipment) comprising:

a processor (processor e.g., part of server 22 for task associated with providing program guide data and other niche hub data to the program guide on the set top boxes) having circuitry to execute instructions (see include, but are not limited to, paragraphs 0100-0101);

a communication interface (i.e. program distribution equipment or interface to user television equipment) coupled to the processor, the communication interface coupled to receive communication from one or more clients (e.g., receiving communication from one or more users of user television equipments – see include, but are not limited to, figures 1a-1d, paragraphs 0088, 0092);

a storage device (e.g. storage device in the server at television distribution facility – see include, but is not limited to, paragraph 0097) coupled to the processor, having instructions stored therein, which when executed cause the apparatus to perform functions as discussed in claim 4.

Regarding claim 44 and 46, the additional limitations of the apparatus as claimed correspond to the additional limitations of the method as claimed in claims 8 and 5, and are analyzed as discussed with respect to the rejection of claims 8 and 5.

Regarding claim 45, E831 teaches a method as discussed in the rejection of claim 43. E831 further discloses the available content includes the further descriptive content (e.g. program title, program description, additional information, etc. – figures 7, 13, 16).

Regarding claim 47, the limitations of the system that correspond to the limitation of the method as claimed in claim 4 or 1 are analyzed as discussed with respect to the rejection of claim 4 or 1. E831 further discloses the system comprises a server (e.g. television distribution facility 16 – figure 1a-1d) and one or more clients (users of user television equipments – figures 1a-1d) coupled to the server.

Regarding claims 48-49, the additional limitations of the system as claimed correspond to the additional limitations of the method as claimed in claims 2-3, and are analyzed as discussed with respect to the rejection of claims 2-3.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Herz et al. (US 5,351,075) discloses home video club television broadcast system wherein the broadcast schedule is refined/changed according to votes received from plurality of users.

Herz et al. (US 6,020,883) discloses system and method for scheduling broadcast of and access to video programs and other data using customer profiles.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SON P. HUYNH whose telephone number is (571)272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Son P Huynh/
Primary Examiner, Art Unit 2424

July 22, 2009